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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,371	07/24/2003	Daniel B. Sachuk	249212022700	2455
25226	7590	02/23/2006	EXAMINER	
MORRISON & FOERSTER LLP 755 PAGE MILL RD PALO ALTO, CA 94304-1018			MILLER, BRIAN E	
			ART UNIT	PAPER NUMBER
			2652	

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 2652

Claims 1-35 are pending.

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-11, drawn to data storage cartridge, classified in class 360, subclass 132.
 - II. Claims 12-19, 29-35, drawn to a tape drive, classified in class 360, subclass 95.
 - III. Claims 20-28, drawn to a tape path, classified in class 360, subclass 93.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed such as a storage cartridge not including a second guide surface. The subcombination has separate utility such as in a tape drive having at least two or more guiding elements.
3. Inventions I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as in a tape drive which does not require a distance of the tape path between the supply reel within the storage cartridge housing and the first guiding element of the tape drive being increased by the guide surface. See MPEP § 806.05(d).

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4. Inventions II and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed such as not requiring a distance of the tape path between the supply reel within the storage cartridge housing and the first guiding element of the tape drive being increased by the guide surface. The subcombination has separate utility such as in a tape drive having at least two or more guiding elements.

5. Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

6. A telephone call was not made to request an oral election to the above restriction requirement, due to time constraints of the Office.

7. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

8. The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.


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9. Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Miller whose telephone number is (571) 272-7578. The examiner can normally be reached on M-TH 7:15am-4:45pm (and every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (571) 272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Brian E. Miller
Primary Examiner
Art Unit 2652

BEM
February 20, 2006